



United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

December 31, 2019

BY ECF

The Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Larry Oquendo, 18 Cr. 790 (PGG)*

Dear Judge Gardephe:

The Government writes to provide an update to the Court regarding restitution and respectfully request additional time to determine the appropriate restitution in the above captioned case.

On December 2, 2019, the Court sentenced the defendant. During sentencing, the Government requested additional time to consider appropriate restitution and the Court ordered the Government inform the Court about restitution no later than January 1, 2020. Since that time, the Government has worked with the victim's records to determine the appropriate restitution. Although those efforts are ongoing, additional time is required in light of the holidays and the victim's presence overseas.

In light of these ongoing efforts, the Government respectfully requests an additional 15 days to consider appropriate restitution and provide a status letter to the Court on January 15, 2020. Pursuant to Title 18, United States Code, Section 3664(d)(5), an order of restitution must be entered no later than 90 days following sentencing. *United States v. Stevens*, 211 F.3d 1, 4 (2d Cir. 2000) ("§ 3664(d)(5) contemplates the entry of the restitution order within the 90-day period . . ."); but see *United States v. Zakhary*, 357 F.3d 186, 191 (2d Cir. 2004) (describing that entry of a restitution order after the 90-day limit is acceptable in certain circumstances). Here, the 90 days will run on March 1, 2020.

For the foregoing reasons, the Government respectfully requests that it be permitted to update the Court about potential restriction no later than January 15, 2020.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney

By:

Kyle A. Wirshba
Assistant United States Attorney
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MEMO ENDORSED

The Application is granted.

SO ORDERED:

Paul G. Gardephe, U.S.D.J.

Dated: Jan. 2, 2020